

EXECUTIVE SUMMARY

All of Maine's organized municipalities are required by law to enact ordinances regulating land-use activities in shoreland areas. The Department of Environmental Protection is responsible for adopting minimum standards for the municipally adopted ordinances, and for general oversight of municipal administration and enforcement of shoreland zoning ordinances.

The main focus of the Department of Environmental Protection for shoreland zoning issues is that of providing assistance to municipal officials. Assistance is provided in the form of formal and informal training sessions, publishing of educational materials, traveling to field site locations, providing oral and written guidance and interpretations, and reviewing draft ordinances. The Department has also established a shoreland zoning web page for town officials and the public.

During the past two-year period, Department staff conducted an experimental filming project in cooperation with a municipal code enforcement officer, in order to document existing conditions on a lake shoreline. The results of that project will be valuable to other municipal officials who wish to document conditions for enforcement purposes.

A new activity conducted by the shoreland zoning unit involved random "audits" of municipal shoreland zoning activities. These audits provide Department staff with a better understanding of local ordinance administration while providing local officials with an educational opportunity. The audits reinforced the Department's concerns over municipal administration of the 30% expansion rule for nonconforming structures. We also noted that municipalities sometimes fail to forward amendments to shoreland ordinances to the Department for approval as required by law.

The return rate of the required biennial code officer reports increased by 12% over the previous reporting period. However, that rate (57%) is still low considering law requires the report to be submitted.

It appears that municipal boards of appeals continue to grant variances in the shoreland zone too freely. The reports reveal that approximately 50% of all variance applications were approved. If boards of appeals approve variances based upon the strict “undue hardship” criteria, few variances would be approved.

The reports submitted by the code officers indicate that twice as many permits are issued for expansions of structures than for new structures. We believe that the desire to convert seasonal camps to year-round homes is one of the major reasons for the number of expansions sought.

In the Department’s previous Shoreland Zoning Report to the Legislature we recommended that the legislature amend the law to grant the Department standing to appeal a local board of appeals’ decision even if the Department did not participate in the hearing. We continue to recommend a change in the law, but are now requesting that towns simply be required to submit copies of variance applications for the shoreland zone to the Department before the board of appeals acts on the request (LD 919). This requirement was previously included in the shoreland zoning law before being repealed in 1991.

Lastly, during the Department’s audits of municipal shoreland zoning activities, it became clear that numerous town officials are reluctant to spend local monies for enforcement of the State-required shoreland zoning ordinances. The Department believes that there would be greater “buy in” for the program if the State provided funds to assist with enforcement matters. Therefore, we recommend that the legislature consider establishing a fund that could be drawn upon by municipal officials for enforcement activities.